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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,996	01/12/2004	Jesse G. James	WCCI-44725	3722
22242	7590	09/21/2005	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			BOEHLER, ANNE MARIE M	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/756,996

Applicant(s)

JAMES, JESSE G.

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19 is/are allowed.
- 6) ☒ Claim(s) 1-11, 13 and 20-54 is/are rejected.
- 7) ☐ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/2004 and 8/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

HC

### DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 8, 9, 13, 20, 21, 24, 26, 27, 29, 30, 33, 36, 38-40, 42, 44, 48, 50, 51, 52, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller (USPN 4,967,867) in view of Jackmauh (USPN 5,546,665).

Fuller shows an axle positioning apparatus with an axle coupler 21, 19, for axle 14, an adjustor member 17 fit in a recessed portion of frame 11, 12, and an actuator 24 that bears against the adjustor member to move the adjustor member longitudinally within the frame. A cover completes the enclosure of the adjustment apparatus. The axle coupler presses against the adjustor 17 when attached to the axle.

Fuller fails to show the frame having inner and outer wall portions with openings in each wall.

Jackmauh shows an axle positioner mounted within a frame 30. the frame has inner and outer walls and proximal and distal holes in the inner and outer walls for allowing passage of the axle 32.

It would have been obvious to one of ordinary skill in the art to position an axle adjuster of the type taught by Fuller within a frame section as taught by Jackmauh, in order to position the adjuster compactly.

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3. Claims 1, 3-10, 13, 20-22, 24-31, 33-42, 44, and 46-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlap in view of Jackmauh.

Dunlap shows an axle positioning apparatus with an axle coupler E, adjuster member C3, C4, and actuator C2 mounted in a recess in frame A.

Dunlap lacks inner and outer walls of the frame.

Jackmauh shows an axle adjuster mounted between inner and outer walls of a frame member 30 to conceal the adjuster in the frame. In Figure 2, the axle coupler bears against the adjuster member C5. The axle coupler includes an externally threaded portion that engages internal threads in the axle.

It would have been obvious to one of ordinary skill in the art to provide the axle adjuster structure between inner and outer walls of the frame, as taught by Jackmauh, in order to protect the movable parts of the apparatus.

Regarding claims 7 and 34, Dunlap shows a threaded member fixed to the adjuster member at an interface, but fails to specify they are connected by a threaded interface. However, it would have been an obvious design expedient to connect the threaded member to the adjuster using a threaded connection, as is common in the art, in order to facilitate manufacture and assembly.

4. Claims 2, 11, 23, 32 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlap and Jackmauh as applied to the claims above, and further in view of Watanabe (USPN 4,634,139).

The combination lacks a cover piece to cover the frame proximate opening and the cover piece having a cover piece opening for passage of the axle.

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Watanabe shows a cover piece bolted to an inner side of frame 12 to provide axle support and protect the inner sides of the fork arms (see col. 4, lines 9-24).

It would have been obvious to one of ordinary skill in the art to provide a cover piece, as taught by Watanabe, in order to provide support for the axle and protect the inner side of rear fork arms.

5. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 14-19 are allowed.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Owen, Caswell, Bolte, Gogo, and Simpson show axle position adjusters.

Kashiwai shows an axle connector using a longitudinally extending screw..

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*amb* 9/12/05

Anne Marie M. Boehler  
Primary Examiner  
Art Unit 3611

amb